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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Feb 04, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

FAINYAN KAIN JAMES  
KIMMERLY,

Defendant.

**2:20-CR-13-TOR**

INDICTMENT

Vio: 18 U.S.C. § 2251(a), (e):  
Production and Attempted  
Production of Child Pornography

18 U.S.C. § 2253  
Forfeiture Allegations

The Grand Jury charges:

Between on or about June 30, 2019, and on or about July 2, 2019, in the  
Eastern District of Washington, the Defendant, FAINYAN KAIN JAMES  
KIMMERLY, did knowingly employ, use, persuade, induce, entice, and coerce a  
minor female to engage in sexually explicit conduct for the purpose of producing a  
visual depiction of such conduct, knowing and having reason to know that such  
visual depiction would be transmitted using any means and facility of interstate  
commerce and using materials that had been mailed, shipped, and transported in  
and affecting interstate and foreign commerce by any means, including by  
computer, and did attempt the same, all in violation of 18 U.S.C. § 2251(a), (e).

## NOTICE OF FORFEITURE ALLEGATIONS

The allegations contained in this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures.

Pursuant to 18 U.S.C. § 2253, upon conviction of an offense in violation of 18 U.S.C. § 2251(a), (e), as alleged in this Indictment, the Defendant, FAINYAN KAIN JAMES KIMMERLY, shall forfeit to the United States any visual depiction described in section 2251, 2251A, 2252, 2252A, 2252B, or 2260, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter; any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offenses; and, any property, real or personal, used or intended to be used to commit or to promote the commission of such offenses, or any property traceable to such property.

If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
  - b. has been transferred or sold to, or deposited with, a third party;
  - c. has been placed beyond the jurisdiction of the court;
  - d. has been substantially diminished in value; or
  - e. has been commingled with other property which cannot be divided without difficulty,

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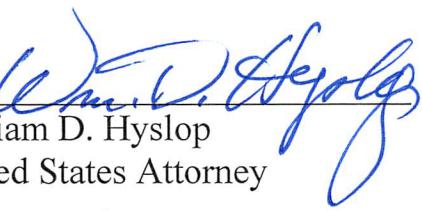
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1 the United States of America shall be entitled to forfeiture of substitute property  
2 pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 2253(b).

3 DATED this 4 day of February, 2020.

4  
5 A TRIE RITT.  
6  
7

8 Foreperson \_\_\_\_\_  
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10   
11 William D. Hyslop  
12 United States Attorney

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14 David M. Herzog  
15 Assistant United States Attorney  
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